

Arkansas, Inc.

News for Arkansas Corporations from Secretary of State Charlie Daniels

Volume 1, Issue 2 ❖ December 2004

www.sos.arkansas.gov

UCC Services Assist Banking Industry

Serving the community's needs is one of Secretary of State Charlie Daniels' trademarks. Under his leadership, the Business and Commercial Services Division (BCS) has reached out to patrons, providing superior customer service through prompt document processing, efficient call handling and courteous service for walk-in customers.

To meet the changing needs of its customers, the division has evolved dramatically over the past couple of years. Uniform Commercial Code (UCC) customers are enjoying a new online search and filing system, which is one of the revolutionary processes that has been at the forefront of BCS's promotion list. The Secretary of State's office is proud to work with the Information Network of Arkansas to provide the new online system to the banking industry and other UCC filers.

Many institutions are unaware that UCC statements can be filed, continued, terminated, amended, assigned and searched online. The online subscription fee is only \$50 per year for up to 10 users. An online subscription allows subscribers to search filings, view collateral images, and file UCC documents in a more efficient and accessible manner. BCS's main objective is to inform customers about the convenience of filing and searching UCC statements online. Some of the more convenient features are:

- E-mail confirmations
- No additional fees for copies or postage
- Searches by debtor name or filing number
- The ability to print filing images
- ACH bank debits/no monthly checks

(See **UCC** on page 2)



Secretary of State Charlie Daniels

Keeping up with changes in government often can be challenging. It is my goal to keep all Arkansas business owners abreast of changes that affect their businesses and provide an avenue by which the business community of Arkansas can voice their individual opinions. Our new publication, *Arkansas, Inc.*, affords this opportunity.

One of the most recent changes enacted by the Arkansas Legislature affects Franchise Tax. As part of the Legislature's funding plan to improve education in Arkansas, the Legislature passed Act 94, which essentially changed the collection of franchise tax in two ways.

First, it increases the state's franchise tax rates. Secondly, it changes the deadline for payment from June 1 to May 1 of each year. These new rates will apply to the 2004 tax year and are due on May 1, 2005 — one month earlier than the former deadline. The chart on page 3 shows the new franchise tax fee schedule.

Our goal is to make filing annual tax as easy and

(See **LETTER** on page 2)

TAKE YOUR MARK

Registration with the Secretary of State Protects Trademarks, Service Marks

A trademark is a word, phrase, symbol or design that is used to identify the source of goods or services of one party from another. A service mark is the same, except it pertains exclusively to services. Typically trademarks appear on the labeling or packaging of a product while a service mark appears in advertising for that service. However in many cases the term trademark is used to refer to both trademarks and service marks.

A trademark is not a patent or a copyright. A patent is used to protect an invention, like a better mousetrap. A copyright protects an artistic or literary work, for example a song or a news article.

The ownership of a trademark can be registered with the federal government as well as with the Arkansas Secretary of State's Office. For information on federal registration contact the U. S. Patent and Trademark Office in Washington D.C., www.uspto.gov. Arkansas Code 4-71-201 sets out the trademark law for Arkansas.

Any individual, partnership or corporate entity may apply to register a trademark that they own. In order to successfully register a trademark, several qualifications and requirements must be met. A trademark must be in use before an application can be submitted.

(See **TRADEMARKS**, page 3)

Business and Commercial Services

Frequently Asked Questions

Q: How do I update the officers of my corporation?

A: By filing an amendment along with the filing fee or updating the information on the Annual Report at no cost.

Q: What does revoked mean?

A: Corporations that are in a revoked status endanger their corporate protections and are barred from many corporate activities. Revocation occurs for failure to comply with all franchise tax obligations. The most common reason is the failure to pay its annual franchise tax.

Q: What is the process to renew my corporation?

A: There is not a renewal process. All companies (for-profit and LLC's) are required to pay an annual franchise tax. Non-profits and LP's are exempt from franchise tax.

Q: What kind of license do I need for my company?

A: A state board, commission or association regulates most businesses that require a state license or permit. For example, to sell real estate you must obtain a license from the Real Estate Commission. In addition, some cities require business owners to acquire a privilege license. The SOS Office only registers corporations and other business entities.

Q: If my business has never made any profit, do I need to do anything with the SOS Office to cease doing business?

A: Yes. The company must complete a final report and formally dissolve by filing articles of dissolution with the SOS Office.

Q: How do I apply for a sales tax ID number?

A: Sales Tax ID numbers can be obtained from the Department of Finance and Administration at (501) 682-7104.

Q: If I file a fictitious name, will that prevent anyone from using that name?

A: No. Fictitious names are not protected from use by other persons.

Q: If I file online how soon will I be able to search for my company on the internet?

A: All filings made prior to 3 p.m. can be viewed the next day on the SOS web site. UCC filings can be viewed immediately

Q: Under what conditions should an amendment be filed?

A: Any time a change is made to the original articles of incorporation, an amendment must be filed with the SOS Office.

Q: Do non-profit corporations automatically have 501-C-3 status?

A: No, 501-C-3 status must be obtained through the IRS.

Q: What is the correct way to change a tax contact address and how much does it cost?

A: Send a letter, signed by one of the officers, to the SOS office requesting a change of address. There is no charge to change a tax contact address.

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- Access to the UCC watch notification system
- Secured party searches
- Free access to all other SOS online services

In today's competitive market, speed is of strategic importance. The Secretary of State's Online Search and Filing System allows customers to perfect their filings by using instant filing placement. One of the biggest advantages of online filing and searching is that it eliminates lag time for mail service. Processes are extremely fast, and confirmation is received immediately. All filings are available online for searching. The UCC watch notification system and secured party search are now available online for subscribers, which many banking institutions and others will find useful for keeping track of the status of filings and lapse dates.

BCS's close partnership with the Information Network of Arkansas has allowed the offices to work closely together in developing the UCC Online Search and Filing site as one of the most user-friendly sites in the country. The Secretary of State's website offers a variety of online services and information making business in Arkansas less expensive, easier, and more convenient.

For more information on UCC Online Searching and Filing, visit the SOS website at www.sos.arkansas.gov or for a free online demonstration call (501) 682-5282.

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convenient as possible. This year businesses can file online at www.sos.arkansas.gov from the comfort of their offices or homes. My staff is available to assist or answer questions at (501) 682-3409 or 1-888-233-0325.

I am extremely excited about a new feature we have this year which is XML Bulk Filing. This feature allows registered agents, CPA's and mass tax filers to download tax payment information and file in bulk. With one stroke, hundreds of annual reports can be filed at one time.

Please let me hear how this new method is working for you. Just contact me through my Business and Commercial Services Division at (501) 682-3409.

New Franchise Tax Rates, Deadline for 2005



As part of its funding plan for improvements in the state education system, the Arkansas Legislature passed Act 94 of the Second Extraordinary Session of 2003, codified as 26-54-104. This law increases the state's franchise tax. The new rates will apply to the 2004 tax year and will be due on a new date, May 1, 2005. To file online, log onto www.sos.arkansas.gov.

The following chart compares the previous Franchise Tax rates with the new rates payable in 2005:

Franchise Tax Type	Tax due through the 2004 Reporting Year	Effective 2005 Reporting Year
Corporation/Bank with Stock	.27% of the outstanding capital stock \$50 minimum	.3% of the outstanding capital stock \$150 minimum
Corporation/Bank without Stock	\$100	\$300
Limited Liability Company	\$50	\$150
Insurance Corporation Legal Reserve Mutual with Stock Greater Than \$100 million	\$200	\$400
Insurance Corporation Legal Reserve Mutual with Stock Less Than \$100 million	\$100	\$300
Insurance Company Outstanding Capital Stock Greater Than \$500,000	\$200	\$400
Insurance Company Outstanding Capital Stock Less Than \$500,000	\$100	\$300
Mortgage Loan Corporation	.27% of the outstanding capital stock \$100 minimum	.3% of the outstanding capital stock \$300 minimum
Mutual Assessment Insurance Corporation	\$100	\$300

Note: 26-54-105. Franchise tax reports.

d)(1) Every corporation that dissolves shall be required to pay at the time of dissolution the franchise tax for the prior calendar year and pay at the time of dissolution the minimum franchise tax for the year in which dissolved or withdrawn.

TRADEMARK, continued from page 1

Marks cannot be registered if they, 1) are considered deceptive or immoral, or 2) falsely suggest an unauthorized connection with persons living or dead, institutions, beliefs or national symbols. Marks also cannot consist of flags, coats of arm or insignia of the United States, any other state of the union, municipality or nation. A mark cannot be registered if it is merely descriptive or mis-descriptive of a product or service. Surnames cannot be trademarked unless they have become distinctive in describing a good or service.

And finally a trademark cannot be registered if it "... comprises a mark which so resembles a mark registered in this state or a mark or trade name previously used by another and not abandoned as to be likely, when used on or in connection with the goods or services of the applicant, to

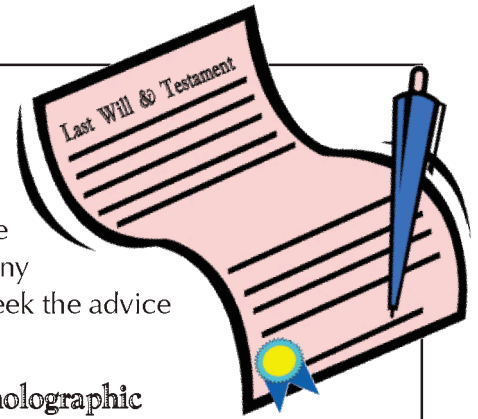
cause confusion or mistake or to deceive."

Trademarks can be registered for five years and can be renewed indefinitely as long as the mark remains in use by the owner. An application form must be completed and submitted to the Secretary of State's office along with three samples of the mark in actual use. These samples may include labels, business cards, letterhead, menus or photographs of signage. The application fee is \$50 per mark.

To indicate ownership of a mark, trademark owners can use the symbol TM while service mark owners can use the symbol SM. The mark does not need to be registered in order to use either designation. However the [®] symbol can only be used by a mark registered with the federal government.

For more information on filing trademarks and service marks in Arkansas, call (501) 682-3409.

What WILL You Do? Tips on Notarizing Wills



The slightest misstep in executing or notarizing a will can be a basis for invalidating the will. Observing the following “don’ts” should keep the Notary out of trouble. But one rule overrides all others: When there is any doubt about how to proceed, the Notary should tell the would-be signer to seek the advice of an attorney:

Don’t notarize without clear instructions.

A Notary should only notarize a will if clear instructions are provided. Such directions may be written or oral. The Notary should never have to guess about how to proceed.

Don’t notarize unless certificate wording is provided.

A Notary can only notarize a will if notarial certificate wording is provided for the Notary to complete. The Notary should not be asked to select or provide a notarial form.

Don’t notarize a holographic will.

In some states, a holographic (handwritten) will, if left alone or if witnessed by two or more persons, is valid. Notarizing a holographic will may cause a court to view the will as having had only one witness, thus making it invalid.

Don’t offer advice.

A Notary, unless a member of the state bar, is not an attorney authorized to offer advice. If the testator is asking for advice on how to complete the will, the Notary should tell the individual to find an attorney.

Taken from the November 2004 issue of The National Notary; “Where There’s A Will, Notaries Can Be Daunted,” by Joseph F. Craig, page 29.



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